



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,231	08/02/2003	Daniel D. Coppens	QFIX-3	2448

54884 7590 04/05/2006

GOMEZ INTERNATIONAL PATENT OFFICE, LLC
1501 N. RODNEY STREET
SUITE 101
WILMINGTON, DE 19806

EXAMINER

SAFARI, MICHAEL

ART UNIT PAPER NUMBER

3673

DATE MAILED: 04/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/633,231

Applicant(s)

COPPENS ET AL.

Examiner

M. Safavi

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on January 17, 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 13-26, 28-36 and 38-47 is/are pending in the application.
- 4a) Of the above claim(s) 1-11, 13-16, 20, 31, 32, 36, 38-40 and 47 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-19, 21-26, 28-30, 33-35, and 41-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claims 1-11, 13-16, 20, 31, 32, 36, 38-40, and 47 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species of the invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on March 29, 2005.

The Office action of July 14, 2005 erroneously listed withdrawn claim 47 with the listing of claims rejected under 35 U.S.C. 103(a) as being unpatentable over WIPO Publication WO 01/35828, (WIPO '828) in view of Oliver et al. '116.

Drawings

The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on January 17, 2004, has been approved.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 17, 18, 20-26, 28, and 33-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Oliver et al. '116. Oliver et al. '116 discloses, Figs. 1 and 2, a patient support device having at least one index positioning means 15 on a first side and at least one index positioning means 15 on a second side with the at least one index positioning means 15 on a first side being asymmetrically spaced from an at least one index positioning means 15 on the second side, (e.g., one upper index positioning means 15 on a first side is asymmetrically spaced from one lower, or offset, index positioning means 15 on a second side). The sidewalls can be seen as chamfered. An accessory device removably secured to the support is as shown in Fig. 4. An accessory device adaptor is at 20 with an attachment feature 30/40, (in the form of a clamp, cam lock, interference fit clip, pin, post and bar), on the first end of the adaptor for mateably joining the adaptor to the at least one positioning feature on the first side, an element 25 on the second end in contact with the second side of the patient support device, and an attachment means, (as can be seen in Fig. 4), for mateably joining and securing an accessory device to the accessory device adaptor.

Claims 17, 19, 21, 22, 25, 29, 30, and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by WIPO Publication WO 01/35828, (WIPO '828). WIPO '828 discloses, Figs. 1 and 4, a patient support device having at least one index positioning means, (any portion or extent of the edge), on a first side and at least one index positioning means, (any portion or extent of the edge), on a second side with the at least one index positioning means on a first side being asymmetrically spaced from an

at least one index positioning means on the second side, (e.g., one portion of the edge on a first side is asymmetrically spaced from one offset portion or extent on a second side). The sidewalls can be seen as chamfered with the top surface extending laterally beyond at least one sidewall to form a lip. As such, the indexing means is formed or "contained" in the lip. An accessory device removably secured to the support is at 18/20.

Claims 17, 21, and 25, 26, and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Brooking '988. Brooking '988 discloses, Fig. 1, a patient support device having at least one index positioning means, (in the form of a notch slot, indentation, cutout, scallop, groove, hole, etc.), on a first side and at least one index positioning means on a second side with the at least one index positioning means on a first side being asymmetrically spaced from an at least one index positioning means 15 on the second side, (e.g., one upper index positioning means on a first side is asymmetrically spaced from one lower, or offset, index positioning means on a second side). The sidewalls can be seen as chamfered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17-19, 21-26, 28-30, 33-35, and 41-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over WIPO Publication WO 01/35828, (WIPO '828) in view of Oliver et al. '116. Arguments to each of WIPO '828 and Oliver et al. '116 can be found above. To have provided the support table 10 with index positioning means along opposite edges thereof as well as provide for both an accessory attachment means and an accessory device, thus allowing for attachment of a patient restraint accessory in an indexing approach, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by Oliver et al. '166. With such a modification a patient support device having at least one index positioning means 15 on a first side and at least one index positioning means 15 on a second side with the at least one index positioning means 15 on a first side being asymmetrically spaced from an at least one index positioning means 15 on the second side, (e.g., one upper index positioning means 15 on a first side is asymmetrically spaced from one lower, or offset, index positioning means 15 on a second side) would be realized.

Response to Arguments

Applicant's arguments filed January 17, 2006 have been fully considered but they are not persuasive. Each of Oliver et al., Brooking and WIPO Publication WO 01/35828, (particularly as modified), disclose "integral indexing means comprises at least one positioning feature on the first side and at least one positioning feature on the second side and, wherein the at least one positioning feature on the first side is asymmetrically spaced from the at least one positioning feature on the second side" as is recited in

each of claims 17 and 25. And, claim 41 does not appear to present “at least one positioning feature on...[a] first side...asymmetrically spaced from...[a] at least one positioning feature on the second side”. Any one of the indexing means (or positioning feature) of Oliver et al., Brooking and WIPO Publication WO 01/35828, (particularly as modified), would be “asymmetrically spaced from” any one of the indexing means (or positioning feature) on an opposite side.

One must bear in mind that, especially in nonchemical cases, the words in a claim are generally not limited in their meaning by what is shown or disclosed in the specification. See, e.g., *Liebel-Flarsheim Co. v. Medrad Inc.*, 358 F.3d 898, 906, 69 USPQ2d 1801, 1807 (Fed. Cir. 2004)(discussing recent cases wherein the court expressly rejected the contention that if a patent describes only a single embodiment, the claims of the patent must be construed as being limited to that embodiment). It is only when the specification provides definitions for terms appearing in the claims that the specification can be used in interpreting claim language. *In re Vogel*, 422 F.2d 438, 441, 164 USPQ 619, 622 (CCPA 1970). See also *Superguide Corp. v. DirecTV Enterprises, Inc.*, 358 F.3d 870, 875, 69 USPQ2d 1865, 1868 (Fed. Cir. 2004) (“Though understanding the claim language may be aided by explanations contained in the written description, it is important not to import into a claim limitations that are not part of the claim. For example, a particular embodiment appearing in the written description may not be read into a claim when the claim language is broader than the embodiment.”)

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (571) 272-7046. The examiner can normally be reached on Mon.-Thur., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (571) 272-7049. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



MICHAEL SAFAVI
PRIMARY EXAMINEE
ART UNIT 3673

M. Safavi
March 30, 2006